

**THE THEORIES OF SCHOLARS OF PAKISTAN AND
INDIA ON LATEST DEVELOPMENTS IN THE
METHODS OF CONTINUAL OF HUMAN LINEAGE.**

Abdul Hai Madni^{*}, Muhammad Anas Muhammad Shoaib^{**}
Bashir Rehman Hanif^{***}

The Scholar Islamic Academic Research Journal || Web: www.siarj.com ||
P. ISSN: 2413-7480 || Vol. 4, No. 2 || July -December 2018 || P. 190-204

DOI: 10.29370/siarj/issue7ar16

URL: <https://doi.org/10.29370/siarj/issue7ar16>

License: Copyright c 2017 NC-SA 4.0

ABSTRACT:

This paper discusses the different theories by scholars from the countries of Pakistan and India on the subject of new advancements in medical science in the field of genealogy and the methods used to procreate in order to ensure the survival and continuation of the human race. Due to technology in modern times, many questions arise when science is used in a natural process and as such Muslim scholars have to consider many factors before making a decision. This article deals with the scholarly

* Associate Professor, NED University of Engineering and Technology Karachi Pakistan. Email: dr.madni67@gmail.com

ORCID ID: <https://orcid.org/0000-0002-1140-1569>

**Ph.D Scholar , Department of Hadith, Faculty of Usuluddin IIUI. Pakistan.

Email: al.jindwi@gmail.com

ORCID ID: <https://orcid.org/0000-0002-0602-8333>

*** Assistant Professor, Hadith and its sciences, Faculty Usool Din IIUI. Islamabad, Pakistan. Email: bashir.rehman@iiu.edu.pk

ORCID ID: <https://orcid.org/0000-0002-0901-4180>

struggles of jurists of sub-continent in this field.

KEYWORDS: Scholars, Pakistan, India, Latest Developments, Methods, Continual, Human Lineage

INTRODUCTION

It is a matter of fact that rapid evolution of medical science has raised many new questions that were never there before the Muslim jurist in the last two centuries. Medical science has encompassed all human life in entirely different way than past especially artificial and modern methods to birth of human being like cloning, test tube baby, artificial insemination, ICSI and cryo-freezing. The religious scholars of the sub-continent have extended their best endeavors to derive the verdict of Quran and Sunnah about these artificial ways according paradigm of derivation of prevalent schools of thoughts.

The religion of Islam is based firmly on principles and rules that need to be followed. After the industrial revolution, the life of man has progressed in ways previously unimaginable. And hence, the life of a Muslim has changed in various aspects which result in questions popping up that need to be answered by the scholars of Islam in order to make sure that Muslims are guided properly and encouraged to tread the right path and stay firm and true to their faith. The areas that include the requirement of new theories to be known include economy, agriculture, medicine and society.

The new accidental theories that are published by the scholars of Indo-Pak are found to be lacking in research and detail. In hindsight of this matter, the writer has strived to compile all the theories of the scholars of Indo-Pak on a very important matter of medical science together in this paper.

Where science has branched out into different areas of life, one area that has been dominated includes the birth of new humans. They are listed as

follows: -

1. Cloning
2. Artificial insemination
3. Test-tube baby
4. ICSI
5. Cryo-freezing

From among these, cloning is the most unique and different. Except this method, the others are listed in detail below including their scientific and religious theorems.

ARTIFICIAL INSEMINATION:

In this method, the semen of the male is artificially extracted and entered into the womb of the female. The semen of the male is thus put inside using a syringe. The different methods that are used to extract this are stated below.

1. The semen is from a living husband.
2. It is the frozen semen of a dead or ex-husband.
3. The semen of a man that has been accidentally used instead of the husband's.
4. It is the semen of a man used without his consent.
5. It is the semen of man used with his consent.¹

TEST TUBE BABY:

Doctor S. Raziuddin claims that the semen of a husband and a wife's egg is placed inside a test tube. This egg can be divided into two to four to

¹ Abdul waheed , Mufti, Dr , Fiqhi Mazameen , Majlis Nashreat Islam , Karachi 2002, (305 ,306).

eight to twelve portions inside the test tube. Later on, this test tube baby can then be transferred into the viable womb of a female.² The test tube baby can also have different types as stated below.

1. A strange man and woman's semen and egg are mixed together in the natural way but then the fertilized egg can be taken out to plant in the womb of a strange woman or his legal wife.
2. The mixed semen and egg can be put into a test tube and transferred to the man's first or second wife in case of infertility of the first.³

ICSI:

The experts of medical science have introduced a new state of test tube babies called ICSI. It is the conceiving of a baby using only a man's sperm's nucleus put into an egg. This method is a beacon of hope for men whose sperm is not active or viable⁴.

CRYO-FREEZING:

-A doctor says that cryo-freezing is the method where the sperm or the egg or the embryo is stored in a specific place. This is used for those patients whose sperm count is not fixed or reliable. So their semen is stored for five years in a cryo-environment. This can also be used for freezing an egg or embryo but the embryo stored is the fertilized one of a higher quality. For this, grading and quality control is used so the children born are

² Murtazai , Muhammad Anwaar ur rasool , Kaloning ka zarea taulead ki sharie haseat , Mashmola kaloning (Muratab) Noor Ahmed Shahtaz , Dr , Schlors academy , Karachi ,1998.(76)

³ Rahmani , Khalid Saifullah , Jadeed Fiqhi Masail , Zamzam Publishers , Karachi , 2002 (5/98-100).

⁴ Rashid Lateef , Dr , Kaloning ka zarea taulead ki sharie haseat . (75)

healthy and strong.⁵

**THE RELIGIOUS ASPECTS OF THESE METHODS:
THE USAGE OF A WOMB OF A STRANGE WOMAN:**

It is considered by the scholars to be against the law of Islam that a husband's sperm be put inside the womb of a surrogate mother or a fertilized egg of a wife be transferred from a test tube into the womb of the other woman. Because these methods involve the dilution and mixing of genes, that makes it equivalent to committing the sin of adultery.⁶

Dr. Ashraf Aleem Jaisi relates that in his opinion if a fertilized egg is put into the womb of a woman after a long period of time then it is considered permissible.⁷

The vast majority of the scholars of Islam have provided evidence of the situations where these methods are considered against Islam.

1. لا يعارج الفرج

Although, it is not allowed to buy a woman's intimate reproductive parts for surrogacy. Hence, since this is not permissible, the child born out of such a situation will be illegitimate.⁸

2. Quranic text reads that your women are your fields.⁹

Because it has proven by the previous evidences that the womb cannot be sold for use by others, it is confirmed that a woman's womb is only a field for her husband.¹⁰

⁵ Saqib Siddiq , Dr , Kaloning ka zarea taulead ki sharie haseat . (76-77)

⁶ Nizamudden , Mufti , Nizamul Fatawa , Maktaba Rehmania , Lahore , (1/214).

⁷ Jaice , Ashraf Aleem , Dr , Test Tube Babe , Muaref , June 1996.(434)

⁸ Abdul waheed , Mufti, Dr , Fiqhi Mazameen., (322)

⁹ Al-Quran 2/322

¹⁰ .Abdul waheed , Mufti, Dr , Fiqhi Mazameen , (322)

3. In this situation, an unknown woman's womb is rented out and according to Islamic point of view is deduced as being not allowed. And one deductive analogy cannot be taken supreme over another.¹¹
4. This is against the fitrat-e-saleema.¹²
5. Rasool-ul-Allah says that no man among you should plow the field of another. This means not to use another man's woman.¹³
6. The use of this method pollutes your generation when shariat lays down many laws that are based on lineage.¹⁴

Dr. Ashraf as previously mentioned agrees to this method, claiming that once the sperm of a man has fertilized an egg, it cannot be further genetically altered so this method of using a surrogate woman is acceptable.¹⁵

The reply: -

Dr. Mufti Abdul Wahid says that even if this is true, it is not enough to discount the method's illegality. He has similarly given all the proofs that have been stated above.¹⁶

Although, this method of surrogate pregnancy cannot be alleged as adultery because in this act a male and female commit a physical sin to attain the pleasures of flesh which is not the case in this. However, a judge

¹¹ Abdul waheed , Mufti, Dr , Fiqhi Mazameen , (322)

¹² Abdul waheed , Mufti, Dr , Fiqhi Mazameen , (322)

¹³ Abu Daoud , Sulaman bin Ashas , Sunan Abi Daoud , darulfiker Baroot . kitab un nikah , Bab fi jame an nikah 2/248 , Hadees 2158.

¹⁴ Goher Rehman , Tafheem ul Masail , Maktaba Tafheem ul Quran , 1998 .(1/260)

¹⁵ Jaice , Ashraf Aleem , Dr , Test Tube Babe , Muaref , June 1996.(434)

¹⁶ Abdul waheed , Mufti, Dr , Fiqhi Mazameen , (332)

can implement a law for this.¹⁷

In these situations, what will happen to the lineage of a man? The rule for this is that if the woman whose womb is being used is married then the child is of her husband. Or if she is single, then the child is to be given to the mother not to the donor of the sperm. However, if a man's sperm is used accidentally in place of the husband or if a husband's sperm is used without consent then the child will be of the man himself.¹⁸

DIFFERENT SITUATIONS:

1. Husband's sperm inserted into his wife's womb using an injection.
2. Husband and wife's fertilized mixture put into the wife's womb from a test tube.
3. If a husband has two wives, one wife's fertilized egg be taken out and put into the womb of the second wife upon infertility.

Some scholars have rejected the third point as not permissible in Islam so they have not argued this point.

These scholars say that in relation to the first and second, both these methods are against the laws of nature.¹⁹

EXPLANATIONS:

1. In Surah Sajida, (ماء مهين)²⁰ Surah Qayama, the drip of semen.²¹ Surah Tariq, bouncing water.²² All these words show that semen that goes from a man's organ into the woman's womb is the natural

¹⁷ Jadeed Fiqhi Masail , 5/99

¹⁸ Abdul waheed , Mufti, Dr , Fiqhi Mazameen , (332)

¹⁹ Abdul Raheem , Mufti , Fatwa Rahemia , Darul ishaat , Karachi. (10/318-319)

²⁰ Al-Quran 32/8

²¹ Al-Quran 75/37

²² Al-Quran 86/6

way. All other ways are unnatural.

2. Quran says,²³ Allah has explained that in the process of birth, we choose whichever part we want to put inside the womb of a woman for a period of time. In test tube babies, this part does not stay in the womb.
3. Surah Mominoon,²⁴ We stored a clot of dirt in a secure place but in test tube babies, no one can guarantee the safety of the environment. The tube can be changed which can result in doubt of lineage. In Surah Zamr, the whole process of birth is said to take place in the womb. He gives your birth in the womb of your mother and gradually gives one face after another out of three.²⁵ However, in test tube, some phases are developed outside the womb.
4. Some ayats in the Quran guide the way to masturbation.²⁶

How can you take back mehr when you have already consummated the marriage?²⁷

You can plow your fields whichever way you choose.²⁸ This is the only natural way to gain pleasure from that which is natural and legal.

5. Some ayats have proclaimed this natural way to be a source of peace. So that you can live with goodwill and love amongst each

²³ Al-Quran 22/5

²⁴ Al-Quran 23/13

²⁵ Al-Quran 39/9

²⁶ Al-Quran 4/21

²⁷ Al-Quran 2/322

²⁸ Al-Quran 2/187

other.²⁹

Allah has bound a husband and wife together so you may find peace in each other. And when a man has covered his wife, then she becomes pregnant and carries the child in her womb.³⁰

6. Only two actions are deemed lawful. On their wives, whom they are masters over and fulfill their needs with.³¹
7. *Tagayul-khalq-Allah* is haram.³²
8. One condition that deems this unlawful is that the woman is a prostitute and her private parts cannot be uncovered in front of a doctor. Mufti Abdur Rahim Lajpuri says: -

To allow a doctor to do this act is forbidden since it is farz on a woman to protect her private parts from men except her husband. When the external organs cannot be touched, how can the touching and viewing of internal organs be allowed? This means both the husband and wife are sinners and will not be rewarded with the scent of heaven so we should avoid this method. If a man desires a child, then the lawful option of marrying a second time is open to him.³³

Over here, a doubt can be raised that a woman can uncover her parts in front of a female doctor and if a female is not available then she can get checked by a male, so why is the method of a test tube baby not allowed? Sahib Ahsan Al-Fatabi replies that ‘A test tube baby method is not used to treat a disease of the body. This is not a necessity, but a desire that is

²⁹ Al-Quran 30/21

³⁰ Al-Quran 7/189

³¹ Al-Quran 23/6

³² Jaice , Ashraf Aleem , Dr , Test Tube Babe ,(434)

³³ Fatawa Rahemia 10/179-180

shameful. If you displease Allah and conceive a child, that child will be a burden onto you.³⁴

Some scholars have given permission for this method if the husband himself inserts the semen inside the womb of the wife³⁵ or if a female doctor does it.³⁶ A male doctor is not allowed at any cost.

Mufti Mehmood Hassan has said that this method of preserving a man's semen will lead to women having babies without marriage. Some places do not forbid this method. This leads to the door for adultery being open. A woman can hence be free of the need for abortion and no punishment of exile or suicide will follow because she has conceived this child with an injection.³⁷

9. Another problem is that this easy method will lead to adultery.³⁸ Those scholars who have forbidden the test tube method have advised men to marry a second or third time.³⁹

These methods can be allowed if a male is handled by a male and vice versa.⁴⁰

EXPLANATIONS:

1. A male and female can be checked up at places where there is

³⁴ Rasheed Ahmed Ludhaanvi , Mufti , Ahsan ul Fatawa , HM Saeed Company , Karachi 1425 (8/215)

³⁵ Majlis Dawet o Tahqeque Islami , Fatawa Bayyanat , Maktaba Bayyanat , Karachi.(4/318)

³⁶ Abdul waheed , Mufti, Dr , Fiqhi Mazameen , (310)

³⁷ Fatawa Mahmodia (18/327)

³⁸ Ibne Aabidain , Muhammad Ameen , Reddulumukhtar ala durrelmukhtar , Darulfiker , Baerut , 1386 . (18/27)

³⁹ Fatawa Mahmodia (18/322,327)

⁴⁰ Sambhali , Burhanuddin , Maojoda zamany k masail ka shaire hal , Faisal nashran , Lahore . (241)

no other option. For example, khatna to cure obesity.⁴¹This requires the private parts to be exposed which is permissible. Like improving a man's prowess.⁴²

2. Islamic scholars have given permission for those treatments for which there is no other option. Some women want children so bad that their mental state is affected, so in this case, a test tube baby method is allowed since it becomes a need for them.⁴³
3. Masturbating by hand as a need is given permission.⁴⁴

THE MOTHER'S RECOGNITION:

If a husband's sperm is injected into his second wife after being taken from the womb of the first, who will be the child's mother? Moulana Khalid Saif-ul-Allah says that since lineage is defined by the sperm, the mother should be the first woman whose egg has been fertilized not the one who carries the pregnancy. But some scholars say the one who births the child is also the mother, in light of Quranic words.⁴⁵

Mufti Abdul Wahib says once an egg have been fertilized by a male and female, another part cannot be added to the mix so the womb of the surrogate mother cannot add any of her genes to the mix hence her only worth is as the provider of the womb so the mother is the woman whose egg has been fertilized.⁴⁶(47) The proof of lineage is the mother whose egg

⁴¹ Khulasa tul fatawa (4/363)

⁴² Sirkhasi , Muhammad bin Abi Sahhel , Almabsot , Darulmarfa , Baroot ,1373.(10/156)

⁴³ Jadeed Fiqhi Masail (5/102)

⁴⁴ Khulasa tul fatawa (1/260)

⁴⁵ Jadeed Fiqhi Masail (5/105)

⁴⁶Al-Quran 58/2

is donated not the one whose womb is used.⁴⁷

Moulana Khalid Saif-ul-Allah suggests that both women be called the child's mother. The one who has born the child through pain should be the real mother. A slave whose being shared by two masters becomes pregnant, the child will be of both fathers.⁴⁸

CONCLUSION:

1. The lineage of man cannot be continued if a man's sperm is put inside the womb of a surrogate mother and this method is considered illegal by the scholars of Indo-Pak.
2. Dr. Ashraf Aleem Jaisi has said that if the fertilized egg has been put inside the surrogate woman's womb then it is permissible.
3. For a man's sperm to be put inside his wife's womb, the ulema of Hindustan have given four opinions:
 - i. Some has said this method is basically wrong.
 - ii. Some have said this method is permissible only if a woman's husband puts his sperm inside his wife.
 - iii. Or if a female doctor is used to do the transfusion. A male doctor cannot do it.
 - iv. If a female doctor is not available, then a male doctor can be used.

COUNTER-ARGUMENTS:

1. Indo-Pak scholars have claimed that the use of a surrogate woman's womb is not allowed and the

⁴⁷ Abdul waheed , Mufti, Dr , Fiqhi Mazameen , (310-321)

⁴⁸ Jadeed Fiqhi Masail (5/106)

four opinions on that are stated below.

a) The woman's intimate parts cannot be bought. When this renting or selling is considered wrong then this whole method is wrong.

b) These methods go against the law of nature and are considered wrong generally, morally and Islamically. It goes against the law of fertilizing the field of another man. The lineage of the husband and the wife remains same and cannot be mixed by the addition of another woman's womb. Dr. Ashraf Aleem Jasi says that there will be no doubt in the lineage but it is still not allowed.

2. Some scholars claim that a man's sperm being transferred to the womb of a wife after being put into a test tube is against the shariat law.

a. It is against the laws of nature. The people who use these methods are desperate and in need so to refuse them this is not allowed by nature.

b. Surgery is also not authentic because practitioners use some methods that change the process of birth by Allah and this is not allowed.

c. If a husband inserts the semen into a wife's womb that is allowed.

d. If a Muslim female doctor is being used, it is allowed.

The desire for a child is so intense that a childless couple usually performs all stages laid down by shariat. This desire is not only in a husband but also in a wife. Often times, this desire is found more deeply in a woman

and cannot be assuaged by marrying a second or third time like a man is allowed to do. According to the necessary laws laid down by shariat, to some extent, this method is allowed like using a female doctor. However, use of a male doctor in any case is not allowed. If the egg of the first wife is put inside the womb of the second, then the child's mother will be the first wife only. Because in this case, the lineage cannot be added after an egg has been fertilized no matter whose womb is being used. But since the second wife has born the pain of labor and birth, she should be titled as the honorary mother of the child.

Conclusion:

The developments in modern science and technological advancements have made it possible for new and varied methods of conceiving a baby to be known. Among these are artificial insemination, test tube baby, ICSI and cryo-freezing. Artificial insemination uses a man's sperm to be put inside a woman's womb to create a baby. In Islam, it is not permissible for a man to use another man's wife in any way so renting out a womb or surrogacy is illegal and the child born in such situations would be illegitimate. In the method of a test tube baby, the scholars consider it unnatural as the Quran states it is in Allah's control what part he uses to produce a child and the environment of a womb cannot be replicated by a test tube. Furthermore, the man has the option of marrying again if he so desires a child but using unlawful means is not acceptable. If a fertilized egg is taken from the first wife and put into the womb of the second wife, then the child's mother will be the first wife but the status of honorary mother should be given to the second wife who has born the pain of labor and delivery. Lastly, if a woman desires a child badly, then the above methods listed can be used with the condition that the private parts of a woman should not be exposed to a man other than her husband at any

stage during the conception.



This work is licensed under a [Creative Commons Attribution-NonCommercial-ShareAlike 4.0 International \(CC BY-NC-SA 4.0\)](https://creativecommons.org/licenses/by-nc-sa/4.0/)
